

METROPOLITAN DEVELOPMENT
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	97-AO-1	(G.O. 34, 1997)
	97-AO-10	(G.O. 76, 1997)

ZONING ORDINANCE 97-AO-10

AMENDING

THE WELLFIELD PROTECTION ZONING ORDINANCE

OF

MARION COUNTY, INDIANA

A PART OF THE CODE OF INDIANAPOLIS
AND MARION COUNTY
(VOLUME III, APPENDIX D)

ADOPTED:

CITY-COUNTY COUNCIL: May 19, 1997 (as amended)

RATIFIED BY THE METROPOLITAN DEVELOPMENT COMMISSION: June 4, 1997

Department of Metropolitan Development

CITY-COUNTY GENERAL ORDINANCE NO. 76, 1997
Proposal No. 211, 1997

METROPOLITAN DEVELOPMENT COMMISSION
DOCKET NO. 97-AO-10

THE WELLFIELD PROTECTION ZONING ORDINANCE
OF
MARION COUNTY, INDIANA

A GENERAL ORDINANCE to amend the Code of Indianapolis and Marion County, Appendix D, as amended, the Zoning Ordinance for Marion County which ordinance includes the Wellfield Protection Zoning Ordinance, as amended, and fixing a time when the same shall take effect.

WHEREAS, IC 36-7-4 establishes the Metropolitan Development Commission of Marion County, Indiana, as the single planning and zoning authority for Marion County, Indiana, and empowers the Metropolitan Development Commission to approve and recommend to the City-County Council of the City of Indianapolis and of Marion County, Indiana, ordinances for the zoning or districting of all lands within the county for the purposes of securing adequate light, air, convenience of access, and safety from fire, flood, and other danger; lessening or avoiding congestion in public ways; promoting the public health, safety, comfort, morals, convenience, and general public welfare; securing the conservation of property values; and securing responsible development and growth; and,

WHEREAS, the safety and potability of the community's ground water supply requires that lands near wellfields used to supply water for public purposes be subject to land use controls designed to prevent site development that is injurious to the public water supply; and,

WHEREAS, the Comprehensive Plan for Marion County, adopted by the Metropolitan Development Commission, recommends establishing wellfield protection programs for all public wellfield areas in Marion County, and it specifically recommends regulating certain potentially hazardous land uses near such wellfield areas; and,

WHEREAS, local water utilities, anticipating the Indiana Department of Environmental Management mandates for Public Water Supply Systems, are presently establishing wellfield protection programs as a first step towards protecting their public wellfields; and,

WHEREAS, dependency on groundwater is increasing (the City of Lawrence and Ft. Harrison are totally dependent on ground water; the Town of Speedway gets much of its water from ground water sources; and, the Indianapolis Water Company estimates that by the year 2000, 18% of its water supply will come from ground water, up from an estimated 9% in 1993); and,

WHEREAS, future development in Marion County is dependent on the availability of ground water, now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Wellfield Protection Zoning Ordinance of Marion County, Indiana, Code of Indianapolis and Marion County, Appendix D, (adopted under Metropolitan Development Commission Docket Numbers 95-AO-6, 95-AO-13A, 95-AO-13B, 96-AO-6 and 97-AO-1), be amended to read as follows:

CHAPTER I

Sec. 1.00. Establishment of districts

The following secondary Wellfield Protection Zoning Districts for Marion County, Indiana, are hereby established, and land within said County is hereby classified, divided and zoned into said districts as designated on the Wellfield Protection Zoning Districts Maps, which maps are attached hereto, incorporated herein by reference and made part of this ordinance.

Wellfield Protection Zoning Districts

Zoning District Symbols

One Year Time-of-Travel
Protection Area (secondary)

W-1

Five Year Time-of-Travel
Protection Area (secondary)

W-5

A. Studies and evaluations of the W-1 and W-5 districts.

1. On or before April 2, 1998, the Department of Public Works, Environmental Resources Management Division ("ERMD") and the Department of Metropolitan Development ("DMD") shall revise the boundaries on the W-1 and W-5 Districts' Maps to conform to property boundaries and city streets.
2. The W-1 and W-5 districts shall be reevaluated by ERMD, with input from a committee including representatives from ERMD, DMD, Health and Hospital Corporation of Marion County, Indiana, and applicable water utilities, no less frequently than every five years to determine scientific reasonableness of the districts' maps. The first of these reevaluations shall be completed by ERMD on or before December 31, 1998.

B. Reports.

1. The ERMD shall provide progress reports on the studies and evaluations as required in Section 1.00 A to the Chairman of the Metropolitan Development Committee of the City-County Council and to the Commission, the first of which reports shall be within thirty (30) days of the initiation of the study provided for in Section 1.00 A 2, and thereafter such reports shall be provided on a quarterly basis.
2. Every water utility having a wellfield within a W-1 or W-5 District shall on or before January 15, 1998, prepare and file with the Chairman of the Metropolitan Development Committee of the City-County Council, the Commission and the Health and Hospital Corporation of Marion County the water utility's water quality monitoring plan for that year, including therein a description of the program designed to alert the water utility of any potential contamination of the groundwater underlying each of the water utility's wellfields. Any amendment to such plan by a water utility shall be filed within thirty (30) days of that amendment with the Chairman of the Metropolitan Development Committee of the City-County Council, the Commission, and the Health and Hospital Corporation of Marion County.

CHAPTER II

Sec. 2.00 General regulations.

The following regulations shall apply to all land within the Wellfield Protection Zoning Districts. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to said land, and in case of conflict, the more restrictive regulations shall apply.

A. Applicability of regulations.

The following regulations shall apply to all land within the Wellfield Protection Zoning Districts, with the exceptions of single and multi-family residential land uses. After the effective date of this ordinance:

No building, structure, premises or part thereof shall be constructed, erected, enlarged, extended, or relocated except in conformity with these regulations and for uses permitted by this ordinance and until the proposed site and development plan has been filed with and approved on behalf of the Metropolitan Development Commission by a technically qualified person. Said request shall be in the form of an application for an Improvement Location Permit, following all requirements for plan submission and

documentation of the Improvement Location Permit Ordinance (68-AO-11, as amended) and shall contain the information specified in Section 2.01, C, a-l.

B. *Development plans required.*

1. In the W-1 district or the W-5 district a site and development plan is required to be filed with and approved on behalf of the Metropolitan Development Commission by the technically qualified person in the Division of Neighborhood Services for any of the land uses listed in Section 2.00, B, 2. when an improvement location permit is required. However, those listed land uses in the W-1 district that, in their ordinary course of business, have less than the threshold amount of one (1) gallon of liquids in the aggregate or six (6) pounds of water soluble solids in the aggregate and those land uses in the W-5 district that, in their ordinary course of business, have less than the threshold amount of one hundred (100) gallons of liquids in the aggregate or six hundred (600) pounds of water soluble solids in the aggregate on site are excluded from this site and development plan requirement.

In determining thresholds, the following substances shall be exempted:

- a. Reasonable quantities of substances used for routine building and yard maintenance stored inside a facility.
 - b. Liquids required for normal operation of a motor vehicle in use in that vehicle.
 - c. Substances contained within vehicles for bulk deliveries to the site.
 - d. Beverages and food at restaurants, supermarkets, convenience stores, and other retail food establishments.
 - e. Uncontaminated public water supply water, ground water and/or surface water.
 - f. Substances, which are packaged in pre-sealed containers, sold at retail establishments.
 - g. Substances utilized for the production and treatment of public water supply.
 - h. Substances, which because of their inherent properties are determined from time-to-time by the technically qualified person to pose no significant threat to ground water.
2. Land uses requiring a site and development plan approval. (Development associated with the land uses listed below, but used exclusively for offices, does not require a site and development plan.)

Primary land uses:

Agricultural Chemical Storage
Animal Feedlots or Stockyards
Asphalt or Tar Production
Automotive Supplies Distribution
Blast Furnaces, Steel Works, Rolling or Finishing Mills
Building Cleaning or Maintenance Services Company
Building Materials Production
Car or Truck Wash

Chemical or Petroleum Storage or Sales

Chemical, Blending or Distribution

Clay, Ceramic or Refractory Minerals Mining or Quarrying

Construction Contractors' Equipment or Materials Storage

Creosote Manufacturing or Treatment

Dry Cleaning Plants or Commercial Laundries

Educational, Engineering or Vocational Shops or Laboratories

Electroplating Operations or Metal Finishers

Equipment Repair

Fat Rendering

Food or Beverage Production (excluding restaurants, catering and other retail food establishments)

Furniture or Wood Strippers, Refinishers

Fuel Dispensing Facilities

Golf Courses or Driving Ranges

Hazardous Waste Treatment, Storage or Disposal

Hospitals

Laboratories: Medical, Biological, Bacteriological, Chemical

Landscape or Lawn Installation or Maintenance Service (Commercial)

Large Institutional Uses: Convalescent or Nursing Homes, Correctional or Penal Institutions, Schools, Colleges or Universities

Leather Tanning or Finishing

Limestone, Sand or Gravel Mining or Quarrying

Machine, Tool or Die Shop

Manufacture of:

Autos or Trucks

Cement

Chemicals or Gases

Colors, Dye, Paint or Other Coatings

Communication Equipment

Detergents or Soaps

Explosives, Matches, or Fireworks

Glass or Glass Products

Light Portable Household Appliances; Electric Hand Tools; Electrical Components or Sub-Assemblies; Electric Motors; Electric or Neon Signs

Machinery, Including Electrical or Electronic Machinery; or Equipment or Supplies (Circuits or Batteries).

Major Electric or Gas Household Appliances

Marine Equipment

Musical Instruments

Office Machinery, Electrical or Mechanical

Paper, Paper Box or Paper Products

Recording Instruments

Tools or Implements, Machinery or Machinery Components

Wood Products

Materials Transport or Transfer Operations (Truck Terminals)

Metal Mining

Mortuary or Other Embalming Services

Motor or Body Repair: Auto, Truck, Lawnmower, Airplane, Boat, Motorcycle

Municipal Waste Landfill or Transfer Station

Oil or Gas Production Wells

Oil or Liquid Materials Pipelines

Painting or Coating Shops (utilizing liquids or water soluble solids)

Pesticide or Fertilizer Application Services

Petroleum Refining

Photographic Processing Facilities

Printing Industries (utilizing liquid inks)

Radioactive Waste Handling or Storage

Road Salt Storage

Rubber or Plastics Processing or Production

Scrap or Junk Yards

Slaughterhouse or Meat Packing

Sludge Treatment or Disposal

Solid Waste Treatment, Storage or Disposal (involving potential ground water contaminants)

Stamping or Fabricating Metal Shops Using Press, Brakes, or Rolls

Textile Production

Warehousing of Potential Ground Water Contaminants

Wastewater Treatment Facilities

Wood Preservers or Treaters

Accessory land uses:

Car or Truck Wash (if an underground storage tank is used)

Dry Cleaning Plants (if 40 gallons or more of petroleum or chlorinated solvents are used or stored in a single container on site)

Motor or Body Repair: Auto, Truck, Lawnmower, Airplane, Boat, Motorcycle (if 55 gallons or more in aggregate of petroleum or chlorinated solvents are used or stored on site)

Fuel Dispensing Facilities

Outdoor Road Salt Storage (if over one ton in bulk)

3. Where an existing use is being expanded, the site and development plan shall generally describe the entire site but only the expansion development is subject to review. Only those chemicals to be used, stored, or handled in the expanded area shall be calculated in determining threshold amounts.

C. *Commitments.* The Commission may permit or require commitments.

D. *State statutory basis.* The applicable Indiana Planning and Zoning Laws pertaining to this ordinance are the 1) 1400 Series - Development Plans of IC 36-7-4 and; 2) 600 Series - Zoning Ordinance [IC 36-7-4-600. Regulations contained in, and revisions to, this ordinance reflect the provisions of the 1400 Series - Development Plans, and the 600 Series - Zoning Ordinance.

Sec. 2.01. Wellfield protection district regulations.

Statement of Purpose. Because of the risk that certain chemicals pose to ground water quality, it is recognized that the further regulation of the use and storage of such chemicals related to land use activities is essential in order to preserve public health and economic vitality within Marion County.

A. *Permitted wellfield protection district uses.* All land uses permitted in the applicable underlying zoning districts shall be those allowed in the W-1 and W-5 overlay districts.

B. *Site and development plan consideration.* Upon the application for an Improvement Location Permit, the technically qualified person, on behalf of the Metropolitan Development Commission, shall consider and either approve, disapprove, or approve subject to any conditions, amendments, or commitments, the proposed site and development plan. Comments from Health and Hospital Corporation of Marion County and applicable water utilities shall be solicited by the technically qualified person prior to approval of a site and development plan and if such comments are provided timely by the Health and Hospital Corporation or applicable water utilities, the technically qualified person shall consider them and may give them such weight as he or she shall determine to be appropriate.

C. *Plan documentation and supporting information.* Said site and development plan shall include:

- a. Any existing uses*
- b. Setbacks*
- c. Landscaping, screens, walls, fences*
- d. Sewage disposal facilities*
- e. Vicinity Map (U.S.G.S. quadrangle preferred)
- f. Brief history of site of new building or addition (usage, historical environmental concerns, abandoned wells, underground storage tanks, septic tanks)
- g. Site map (drawn to scale) including:
 - All existing and proposed structures*
 - Paved and nonpaved areas*
 - Utility lines (inside and outside structures) including sanitary sewers, storm sewers, storm retention ditches/basins/french drains/dry wells, etc. (both proposed and existing)
 - Floor drain locations and outlets
 - Chemical/product storage locations
 - Waste storage locations
 - Liquid transfer areas
 - Site surface water bodies (streams, rivers, ponds)*
 - Underground storage tanks
 - Aboveground storage tanks
- h. Proposed containment area detail drawings--area, heights, materials, specifications, if applicable
- i. Description of proposed operations including chemicals/products used or generated, chemical/product storage area descriptions, waste generation quantities, equipment cleaning/maintenance procedures, heating source (oil/gas), liquid transfer/loading areas.
- j. Methods and locations of receiving, handling, storing, and shipping chemicals/products and wastes
- k. Response measures and reporting
- l. Description of slopes near containment vessels and waste storage areas*

Such site and development plan shall be provided to the Health and Hospital Corporation of Marion County and applicable water utilities when sent to the technically qualified person.

* Information required by ILP ordinance.

D. *Site and development requirements.* Land in the W-1 and W-5 Districts is subject to the following site and development requirements.

In review of the proposed site and development plan, the technically qualified person shall assess whether said site and development plan:

1. Is consistent with the Comprehensive Plan of Marion County, Indiana.
2. Will prevent potential ground water contaminants associated with human activity from interfering with each community public water supply system's ability to produce drinking water that meets all applicable federal primary drinking water standards after undergoing conventional ground water treatment.
3. Will not pose an unreasonable risk to ground water within a designated wellfield protection areas.
4. Complies with Section 2.01 H.

The technically qualified person shall consider and act upon any such proposed site and development plan; and may approve the same in whole or in part, or impose additional conditions, or commitments thereon. (It is the intent of the ordinance that review of site and development plans be done in an expeditious manner. Generally this review would occur within fourteen (14) days from receipt of plan documentation and supporting information required in Section 2.01 C.

E. *Public notice.* Public notice of the filing of an application under this section and public notice of the decision by the Administrator relative to such application shall not be required because this application is being treated as an improvement location permit application.

F. *Staff approval.*

1. *Standards for review and disposition.* The technically qualified person shall be required to use the standards of Section 2.01, D, and Section 2.01, H, in the review and disposition of such plans.
2. *Appeal of staff approval.* Any party of interest or aggrieved person shall have the right to appeal action by the technically qualified person before the Metropolitan Development Commission to approve or disapprove a site and development plan. Such appeal shall be filed as an approval petition within ten (10) business days of approval or denial of said approval as specified in, and following, the Rules of Procedure of the Metropolitan Development Commission.
3. *Commission findings.* The Commission shall make written findings concerning any decision to approve or disapprove a site and development plan filed under this Section 2.01, D above. The President or Secretary of the Commission shall be responsible for signing the written findings.
4. *Public information.* The decision of the technically qualified person to approve or disapprove a site and development plan and the file on which the decision is based are public records and are available for examination by any person. The Department of Metropolitan Development shall, within 2 business days of the decision, send by fax a summary of the decision (including the docket number of the case, the address, a summary of the request, any waivers granted, and a summary of the action taken by the technically qualified person) to:
 - a. Members of the City-County Council
 - b. The President of the Marion County Alliance of Neighborhood Associations, Inc.
 - c. Indianapolis Chamber of Commerce

- d. Health and Hospital Corporation of Marion County
- e. Applicable water utilities

The validity of the decision of the technically qualified person shall not be affected by any failure to comply in all respects with this public information provision.

G. *Improvement location permit requirements.* No building or structure shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated in said Wellfield Protection Districts of Indianapolis, Marion County, Indiana, without an Improvement Location Permit, and said permit shall not be issued until the proposed site and development plan, if required in Section 2.00, B, has been approved in accordance with this section.

H. *Development standards.* In addition to the site and development requirements of Section 2.01, D, all development within the W-1 and W-5 Districts shall be reviewed by the technically qualified person for conformity with the following requirements:

1. Prior to approving a site and development plan, a technically qualified person may:
 - a. Impose conditions or require commitments to protect the ground water supply in addition to the requirements stated in Sec. 2.01,H,2.
 - b. Substitute conditions or commitments that protect the ground water supply for one or more of the requirements in Sec. 2.01,H,2.
 - c. Waive one or more of the requirements in Sec. 2.01,H,2 (Notice of the proposed issuance or granting of any such waiver shall be provided to the Health and Hospital Corporation of Marion County and the applicable water utilities.)

In determining whether conditions or commitments should be made applicable, in determining whether conditions and commitments should be substituted for requirements, and in determining whether requirements should be waived, the risk to the ground water supply posed by the development and the costs of various methods of protecting the ground water supply shall be considered. The technically qualified person shall make findings supporting the substitution of conditions or commitments for requirements or the waiver of requirements.

2. Land in the W-1 and W-5 Districts is subject to the following requirements:
 - a. All known abandoned wells shall be identified and sealed in accordance with applicable law.
 - b. No surface impoundments, ponds, or lagoons shall be established except for:
 - i. Storm water detention and retention ponds; and
 - ii. Recreation or landscaping purposes.
 - c. In the W-1 District, detention and retention ponds shall meet one of the following criteria:
 - i. They are constructed in a manner that provides an effective barrier to the migration of potential ground water contaminants into the ground water.
 - ii. There are existing developed site features, including the location of the proposed pond, to prevent the migration of potential ground water contaminants into the ground water.

- d. The development shall be connected to municipal sanitary sewers or combined sewers. Floor drains, if present, must be connected to sanitary sewers or combined sewers or routed to a temporary holding area for removal.
- e. All trash dumpsters shall be located on hardsurfaced areas that drain to storm sewers or combined sewers.
- f. All areas that may be used for the storage of potential ground water contaminants shall be constructed in a manner to prevent a release from the storage area from reaching the ground water.
- g. All vehicle or equipment repair and shop areas shall be located within an enclosed building that includes a floor constructed of material which forms an effective barrier to prevent the migration of fluids or other materials into the ground water.
- h. The following restrictions apply to new, outdoor storage areas only in the W-1 district:
 - i. No above ground storage tank of liquid (for underground storage tanks see requirement m) of greater than one thousand (1000) gallons is allowed.
 - ii. No storage of water soluble solids of more than six thousand (6000) pounds per container is allowed in any one containment area.
 - iii. Restrictions of i. and ii. above may be waived by the Technically Qualified Person if the tanks or other storage container is at least 200 feet from a Public Water Supply System (PWSS) well, is above ground, and is located where at least 25 feet or a suitable thickness of naturally occurring or compacted low permeability fine grained materials overlie the aquifer used by the PWSS.
- i. Except for fuel stored in accordance with H.2,n, at a fuel dispensing facility, all tanks holding more than 40 gallons of liquids for more than twenty-four hours must be in a location or containment area capable of preventing any release from the tank from reaching the ground water table. A containment area capable of containing 110% of the largest such tank in that location would satisfy this requirement.
 - i. The containment area shall be constructed to meet at least one (1) of the following requirements:
 - 1. A secondary containment structure designed to prevent and control the escape or movement of potential ground water contaminants into ground water for a minimum period of 72 hours before removal; or
 - 2. A storage tank designed and built with an outer shell and a space between the tank wall and the outer shell that allows and includes interstitial monitoring.
 - ii. Where practical, the secondary containment structure shall be designed to allow drainage or pumping into a holding area designed to contain the discharge until it can be properly removed.
 - iii. The secondary containment structure shall be properly maintained and shall be free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardize the integrity of the structure.
 - iv. Secondary containment systems shall be designed so that the intrusion of precipitation is inhibited or that stormwater is removed to maintain system capacity.

- j. While being stored, water soluble solids must be kept dry at all times.
- k. Sludges which could release liquids or water soluble solids must be contained so that neither could enter the ground water.
- l. The transfer area for the bulk delivery of liquids shall be required to accommodate and contain a release that occurs during loading and unloading of a tank as follows:
 - i. The liquid transfer area shall be constructed in a manner to prevent a release in the transfer area from reaching the ground water.
 - ii. The portion of the liquid transfer area intended to contain releases shall be maintained so that it is free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardize the integrity of the area.
- m. In the W-1 district, existing underground storage tanks (USTs) may be replaced or upgraded only in accordance with requirement n. Replacements and upgrades to existing USTs at fuel dispensing facilities are not subject to the volume limitations. No other new USTs are permitted in the W-1 district.
- n. In the W-1, the following requirements apply only to fuel dispensing facilities, or replacement or upgraded USTs as referenced in requirement m. For all other tanks, see requirement i.
 - i. Approved USTs shall be double walled.
 - ii. Approved USTs shall include the following three methods of release detection:
 - 1. Inventory Control as defined in 40 CFR 280.43(a);
 - 2. Monthly 0.2 in tank leak test as defined in 40 CFR 280.43(d); and
 - 3. Interstitial monitoring of a double walled approved UST as defined by 40 CFR 280.43(g).
 - iii. Connected piping must include the following three methods of release detection:
 - 1. Inventory Control;
 - 2. Continuous detection for 3 gallon per hour line leak, as specified in 40 CFR 280.44(a) except that automatic shutoff is required at 95% tank capacity; and
 - 3. Double walled line which is continuously monitored to detect the presence of liquid in the interstitial space and provided an alarm as specified in 40 CFR 280.44c via 280.43g.
- o. In the W-5 district, the requirements of 40 CFR Part 280 apply to existing, registered USTs which are replaced or upgraded and USTs installed at new fuel dispensing facilities. In addition, the construction standards of 40 CFR Part 280, applicable to non-petroleum USTs, shall be applicable to the following in the W-5 district:
 - 1. Such a tank that is covered by state or federal hazardous waste regulations;
 - 2. Heating oil tanks for on-site use;
- p. The following requirements apply to all excavation activities associated with the removal of sand and gravel materials:

- i. If the extraction of sand and gravel involves the removal of materials below the normal ground water level, the work shall be accomplished by way of a dragline, floating dredge, or an alternative "wet" excavation method.
 - ii. There shall be no de-watering of sites utilized for sand and gravel extraction.
 - iii. No form of solid waste, sludge, or any other form of waste material of any kind, including, but not limited to, construction/demolition debris, shall be used on the site. Clean natural earth fill materials may be used without restriction as to origin or placement on-site.
 - iv. All fuels, oils, lubricants, hydraulic fluids, petroleum products or other similar materials on site shall be secondarily contained.
- q. De-watering of sites shall be permitted only for the following purposes:
- i. To prevent water damage to structures; and
 - ii. To protect ground water quality; and
 - iii. The temporary de-watering for the construction of sewers and other underground facilities, including foundation structures.
- r. Class V injection wells (as defined in 40 CFR 146) shall be prohibited with the exception of the following:
- i. Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump, if non-contact; and
 - ii. Cooling water return flow wells used to inject water previously used for cooling, if non-contact; and
 - iii. Barrier recharge wells used to replenish the water in an aquifer or to improve ground water quality, provided the injected fluid does not contain potential ground water contaminants; and
 - iv. Wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power, if non-contact.

Sec. 2.03. Construction of language and definitions.

A. *Construction of Language.* The language of this ordinance shall be interpreted in accordance with the following regulations:

- 1. The particular shall control the general.
- 2. In the case of any difference of meaning or implication between the text of this ordinance and any illustration or diagram, the text shall control.
- 3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- 4. Words used in the present tense shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- 5. A "building" or "structure" includes any part thereof.

6. The phrase "used for", includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
7. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either...or", the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. "Either...or" indicates that all the connected items, conditions, provisions, or events shall apply singly but not in combination.

B. *Definitions.* The words in the text or illustrations of this ordinance shall be interpreted in accordance with the following definitions. The illustrations and diagrams in this section provide graphic representation of the concept of a definition; the illustration or diagram is not to be construed or interpreted as a definition itself.

1. *Abandoned Well.* A well whose use has been permanently discontinued or which is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.
2. *Above Ground Storage Tank.* Any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of potential ground water contaminants and the volume of which (including the volume of underground pipes connected thereto) is less than ten (10) percent beneath the surface of the ground. Flow-through process tanks are excluded from the definition of above ground storage tanks.
3. *Approved Underground Storage Tank.* A stationary device designed to contain an accumulation of potential ground water contaminants and constructed of non-earthen materials, for example, steel or fiberglass, which has been approved for use by the Steel Tank Institute or the Fiberglass Petroleum Tank and Pipe Institute.
4. *Building.* Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having a permanent roof supported by columns or walls.
5. *Chlorinated Solvent.* Any liquid solution containing at least ten percent of a chemical or chemicals classified as a chlorinated organic compound. If the concentration of the chlorinated organic compound in the liquid is not known, the entire volume of the liquid solution shall be considered to be a chlorinated solvent.
6. *Commission.* The Metropolitan Development Commission of Marion County, Indiana.
7. *Commitment.* An official agreement concerning and running with the land as recorded in the office of the Marion County Recorder.
8. *Condition.* An official agreement between the municipality and the petitioner concerning the use or development of the land as imposed by the technically qualified person.
9. *Connected Piping.* All underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system.
10. *Containment Area.* An above ground area with floors and sidewalls that have been constructed of a material which will prevent migration of fluids into the ground water.

11. *Development Plan.* As enabled by 1400 SERIES--DEVELOPMENT PLANS IC 36-7-4-1400 through IC 36-7-4-1499.
12. *De-Watering.* Any removal of ground water specifically designed to lower ground water levels.
13. *Disposal.* Discharge, deposit, injection, dumping, spilling, leaking, or placing of any potential ground water contaminants into or on any land or water.
14. *Excavation.* The breaking of ground, except common household gardening, ground care and agricultural activity.
15. *Fuel Dispensing Facility.* Any facility where gasoline or diesel fuel is dispensed into motor vehicle fuel tanks from an underground storage tank.
16. *Ground Water.* Any water occurring within the zone of saturation in a geologic formation beneath the surface of the earth.
17. *Hardsurfaced.* (Pertains to the Wellfield Protection Zoning Ordinance only.) Quality of an outer area being solidly constructed of asphalt, concrete, or other Health and Hospital Corporation approved material.
18. *Interstitial Monitoring.* A system designed, constructed and installed to detect a leak from any portion of a storage tank or connected piping that routinely contains potential ground water contaminants by monitoring the space between the primary (inner) tank or connected piping and the secondary (outer) tank or connected piping.
19. *Legally Established Nonconforming Use.* Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment, or granted a variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment or variance to conform to the present requirements of the zoning district.
20. *Liquid.* A liquid is a substance or mixture which is fluid at 20 degrees C (68 degrees F).
21. *Liquid Transfer Area.* An off-street area maintained and intended for temporary parking of a commercial vehicle while transferring potential ground water contaminant to and from a facility.
22. *Permitted Use.* Any use by right authorized in a particular zoning district or districts and subject to the restrictions applicable to that zoning district.
23. *Potential Ground Water Contaminant.* Any material which because of its toxicity and mobility in ground water, poses a significant hazard to the quality of ground water resources used for public water supply.
24. *Premises.* A platted lot or part thereof or unplatted lot or parcel of land, either occupied or unoccupied by any structure, and includes any such building, accessory structure, adjoining alley, easement, or drainage way.
25. *Release.* Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (surface water, ground water, drinking water supply, land surface, subsurface strata).
26. *Shop Area.* A production or repair area equipped with tools and machinery.
27. *Site Plan.* The Plan, or series of plans, drawn to scale, for one or more lots on which is shown the existing and proposed locations and conditions of the lot including as required by the Improvement Location Permit Ordinance, but not limited to: topography, vegetation, drainage, floodplains,

marshes, and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, buildings, structures, signs, lighting and screening devices, center lines of rights-of-way, and dimensions.

28. *Storage.* The long term deposit (more than twenty-four hours) of any goods, material, merchandise, vehicles, or junk.
29. *Structure.* A combining or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.
30. *Surface Impoundment.* A natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.
31. *Tank.* A tank is a stationary device designed to contain an accumulation of liquids and which is constructed of non-earthen materials, for example, concrete, steel, or plastic, that provides structural support.
32. *Technically qualified person.* A technically qualified person is either (a) any person provided by the ERMD pursuant to a contract or memorandum of understanding between the Department of Metropolitan Development ("DMD") and ERMD, or (b) any person with whom the ERMD has a services contract and who is provided to DMD by ERMD pursuant to a contract or memorandum of understanding between DMD and ERMD. Such technically qualified person is a person who is competent to evaluate site and development plans for contamination risk to ground water quality. Examples of technically qualified persons include professional engineers, certified professional geologists and environmental and other scientists with specialized training and experience in hydrogeology, contaminant transport, and hazardous materials management.
33. *Underground Storage Tank.* Any one or combination of tanks (including underground pipes connected thereto) that is regulated under 40 CFR Part 280. Notwithstanding the exceptions in 40 CFR, Part 280, for the purpose of this ordinance an underground storage tank also includes:
 1. A tank which would otherwise be regulated by 40CFR, Part 280 but for the fact that it contains hazardous waste as regulated under subtitle C of the federal Solid Waste Disposal Act.
 2. A tank which would otherwise be regulated by 40 CFR, Part 280 but for the fact that it is used to store heating oil for consumptive use on the premises where stored.
34. *Vehicle or Equipment Repair Area.* An area designated, designed and intended for the purpose of repairing automotive vehicles or equipment.
35. *Well.* A bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension.

CHAPTER III

Section 3.00. Groundwater protection.

A. *Groundwater Protection Fund.*

There is created a Groundwater Protection Fund, funds from which shall be used only for those specific activities identified in Section C below.

B. *Groundwater Protection Fee.*

Each public water supply system that pumps groundwater from one or more wells located within a W-1 or W-5 District shall pay into the Groundwater Protection Fund a percentage of the annual fee assessed by the Commission, such percentage to be determined by dividing the number of customers served by the water supply system at the end of the calendar year by the total number of customers served at the end of the calendar year by all public water supply systems that pump from one or more wells within a W-1 or W-5 District. The annual fee assessed by the Commission for any calendar year shall be based on the Commission's approved budget for the specific activities identified in Section C below, but shall not exceed Two Hundred Thousand Dollars (\$200,000). Within thirty (30) days following the approval of the Commission's budget for the specific activities described in Section C below during the following year, the Commission shall notify the public water supply systems that pump groundwater from one or more wells located within a W-1 or W-5 District as to the amount of the annual fee to be assessed all such systems for the following year. Each public water supply system subject to this Ordinance that pumps groundwater from one or more wells within a W-1 or W-5 District shall report, in writing, to the Commission on or before January 31 of each year, the number of customers served at the end of the prior calendar year. On or before March 1 of each year, the Commission shall determine the amount of the annual fee to be assessed and notify each of the water supply systems that pumps groundwater from one or more wells within a W-1 or W-5 District as to the portion of such annual fee to be paid by such public water supply system. The public water supply system shall pay the full amount of its portion of the annual fee assessed by the Commission on or before March 15 of each year.

C. *Groundwater Protection Costs.*

The funds in the Groundwater Protection Fund shall be used solely to pay for:

1. Administrative costs incurred by the Commission and the Department of Metropolitan Development in the implementation of this Ordinance;
2. Study costs incurred in accordance with the provisions of Section 1.00 A; and
3. Costs incurred in establishing and maintaining a wellfield education and registration program.

CHAPTER IV

Sec. 4.00. Severability. If any provision of this ordinance shall be held invalid, its invalidity shall not affect any other provisions of this ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this ordinance are hereby declared to be severable.

Sec. 4.01 Compliance. This ordinance shall be in full force and effect upon its adoption in compliance with I. C. 36-7-4.

SECTION 2. The adoption of the Comprehensive Zoning Maps, as amended, shall not supersede, amend or repeal any individually initiated rezoning ordinances approved by the City-County Council subsequent to September 2, 1987, and thereafter legally effective (which rezoning by individual legal description have not been mapped and included upon the Comprehensive Zoning Maps, as amended, but shall be so included upon said Maps in a subsequent map updating amendment hereto).


SECTION 3. The adoption of the Comprehensive Zoning Maps, as amended, shall not supersede, amend or repeal Airport Zoning Ordinance (94-AO-2, which includes the language of the former Airspace District Zoning Ordinance [62-AO-2] as amended) and the Airspace District Map adopted as part thereof, establishing the Airspace District as a secondary zoning district of Marion County, Indiana.

SECTION 4. The adoption of the Comprehensive Zoning Maps, as amended, shall not supersede, amend or repeal the Floodway and Floodway District Fringe zoning district boundaries, as adopted under Metropolitan Development Commission docket number 92-AO-7.

SECTION 5. This rezoning shall not supersede, amend or repeal the Regional Center Zoning District boundaries, as adopted under Metropolitan Development Commission docket number 70-AO-3, as amended.

The foregoing was passed by the City-County Council this 19th day of May, 1997 at 9:24 p.m.

ATTEST:


Sueilen Hart, Clerk, City-County Council


Reurt Lervaa

Dr. Beurt SerVaas
President, City-County Council

STATE OF INDIANA, MARION COUNTY)
) SS:
CITY OF INDIANAPOLIS)

I, Suellen Hart, Clerk of the City-County Council, Indianapolis, Marion County, Indiana, do hereby certify the above and foregoing is a full, true, and complete copy of Proposal No. 211, 1997, a Proposal for GENERAL ORDINANCE, passed by the City-County Council on the 19th day of May, 1997, by a vote of 25 YEAS and 2 NAYS, and was retitled General Ordinance No. 76, 1997, and now remains on file and on record in my office.

WITNESS my hand and the official seal of the City of Indianapolis, Indiana, this 23rd day of May, 1997.


Suellen Hart, Clerk, City-County Council

(SEAL)

MEMORANDUM

To: Staff

From: Cindy Spoljaric, Division of Planning

Date: June 5, 1997

Re: Wellfield Protection Ordinance Amendment (effective July 1, 1997)

SUMMARY OF THE DEVELOPMENT PLAN REVIEW AMENDMENT TO WELLFIELD PROTECTION ORDINANCE

APPLICATION: All land, except single and multi-family residential, within wellfield protection zoning districts that:

- will require an Improvement Location Permit; and
- will have a primary or accessory use listed in Section 2.00, B, 2; and
- will use or store at least the threshold amount of non-exempt liquids or water soluble solids (in the W-1, 1 gallon or 6 pounds; in the W-2, 100 gallons or 600 pounds)

DEVELOPMENT PLAN REVIEW PROCESS:

- Development Plan Review is part of the Improvement Location Permit process for those businesses which meet the above conditions.
- Businesses must have their site and development plans approved by the technically qualified person, who may impose waivers, substitutions, conditions or commitments to the requirements, to obtain the permit. Requirements are generally related to secondary containment measures to prevent the release of potential contaminants to groundwater.
- Comments from Health and Hospital Corporation and applicable water utilities will be solicited by the technically qualified person prior to approval.
- The decision and related file will be available for public review.
- DMD, within two days of the technically qualified person's decision, will send by fax a summary of the request and the decision to: 1) Members of the City-County Council 2) The president of MCANA, Inc. 3) Indianapolis Chamber of Commerce 4) Health and Hospital Corporation of Marion County and 5) applicable water utility

APPEALS:

- Any party of interest may appeal action by the technically qualified person before the Metropolitan Development Commission.
- Appeal must be filed within 10 business days of decision being made available for public review.
- Action by the Metropolitan Development Commission may be appealed to a court of law by writ of certiorari.

ESTIMATED IMPACTS:

- Wellfield protection areas encompass approximately 7.8% of all land within Marion County. Wellfield protection areas contain about 6.9% of all land zoned commercial and about 5.2% of all land zoned industrial in the county.
- Although no formal study has been undertaken, it may cost businesses anywhere from \$0 to \$30,000 to comply with the requirements. Costs will depend on size and type of business, amount and type of contaminants, and general complexity of the project.
- It is estimated that approximately 5 to 15 businesses per year will be required to undergo the development plan review process.